IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 10393 of 2005

Between:

K.Mallaiah, S/o. Ramaiah,
Alledurg Village, & Mandal Medak District.

PETITIONER

AND

1 The Regional Manager, APSRTC, Medak Region, Medak District.
2 The Divisional Manager, APSRTC, Medak Region, Medak District.
3 The Depot Manager, APSRTC, Narayankhed Bus Depot, Medak District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ order or direction preferably a writ in the nature of Mandamus declaring the action of the 3rd respondent in issuing the Proceedings No.P2/1(46)/93-NKD, dt.14-04-1993 as illegal, arbitrary and unjust and consequently set aside the Proceeding No.P2/1(46)93-NKD, dt.14-04-1993 issued by the 3rd respondent.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court made the following :

ORAL ORDER:

Questioning the penalty imposed by the 3rd respondent on the petitioner withholding annual increment for a period of one year with cumulative effect by issuing the Proceedings No.P2/1(46)/93-NKD, dated 14.4.1993, this writ petition is filed.

The learned counsel for the petitioner has contended that without conducting any enquiry, major penalty has been imposed on the petitioner and therefore, the impugned proceedings are liable to be set aside.

On the other hand, the learned standing counsel for the respondents has contended that the penalty was imposed in the year 1993 and therefore, there are no grounds to interfere with the impugned proceedings.

For certain irregularities said to have been committed by the petitioner, a charge sheet dated 27.3.1993 was issued to him and he gave an explanation. As the explanation was not satisfactory, the disciplinary authority imposed a major penalty of deferment of annual increment for a period of one year with cumulative effect. Imposing a major penalty without conducting regular departmental enquiry

cannot be sustained under law. Admittedly, no regular departmental enquiry was conducted in this case. Though it is a matter to be remitted to the disciplinary authority for passing appropriate orders, the learned counsel appearing for the petitioner requested this Court to modify the major penalty imposed by the 3rd respondent to that of a minor penalty. As the alleged irregularities took place in 1993, at this point of time, it is not desirable to remit back the matter to the disciplinary authority for conducting any regular departmental enquiry and further more, the petitioner has requested to impose a minor penalty. Therefore, the penalty can be modified in view of the peculiar facts and circumstances of the case.

In the result, the writ petition is disposed of modifying the penalty of deferment of annual increment for a period of one year with cumulative effect to that of deferment of annual increment for a period of one year without cumulative effect. In the circumstances of the case, there shall be no order as to costs. By virtue of this order petitioner is not entitled to any monetary benefits.

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(K.C. BHANU, J.)

29th April, 2005

bcj

To

1 The Regional Manager, APSRTC, Medak Region, Medak District.
2 The Divisional Manager, APSRTC, Medak Region, Medak District.
3 The Depot Manager, APSRTC, Narayankhed Bus Depot, Medak District.

4 Two CD copies